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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,012	11/14/2003	Yoichi Sato	03560.003393	7802

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

DURNFORD GESZVAIN, DILLON

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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09/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/712,012	SATO, YOICHI
Examiner	Art Unit	
Dillon Durnford-Geszvain	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 June 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. .

Disposition of Claims

4) Claim(s) 7-10 is/are pending in the application.
4a) Of the above claim(s) 7-10 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 7-10 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application
6) Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 1-6 are cancelled and claims 7-10 are added.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 7-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner cannot find support in the specification for the newly claimed limitation, in claim 7, of a second mode for continuously reading out first correction data and second correction data from the photoelectric conversion area, wherein the first correction data is acquired by accumulating charge in the photoelectric conversion area shielded by a shutter during the first charge accumulation time and the second correction data is acquired by accumulating charge in the photoelectric conversion area shielded by a shutter during the second charge accumulation time.

Specifically the newly claimed limitation appears to be claiming is that in the second mode which operates after completion of the first mode the first correction data

is acquired at the same time as the first image data and the second correction data is collected at the same time as the second image data is being collected and this all happens with a shutter covering the imaging area. The limitation also appears to be indefinite and this will be addressed below.

The Examiner requests that if the Applicant believes there is support for the preceding limitation that they point out specifically where such support can be found.

Claims 8-10 depend from a claim found to contain new matter and therefore also contain new matter.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 states that the first image data is read out during a first charge accumulation time and second image data is read out during a second charge accumulation period in a first mode and in a second mode that operates after a first mode first correction data is acquired, while the imaging area is shielded be a shutter, during **the** first charge accumulation time and second correction data is acquired, while the imaging area is shielded be a shutter, during **the** second charge accumulation time.

This claim is indefinite for two reasons. First, it is unclear how correction data can be acquired during the first charge accumulation time if the second mode operates after

the first mode. In other words, how can the first correction data be acquired during the first charge accumulation time when, by definition, the first charge accumulation time happens when the first mode is operating.

Second, it is unclear how image data could be acquired when the shutter is closed, as it is claimed to be during the charge accumulation time.

Claims **8-10** are indefinite as depending from claims that are indefinite.

In light of the rejections above under 35 USC 112 examination on the merits of the claims is precluded.

Election/Restrictions

6. Newly submitted claims **7-10** are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the newly presented claims acquire correction data in a wholly different manner than the originally submitted claims and would correspond to a separate species if there is support for the claims in the specification.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims **7-10** are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dillon Durnford-Geszvain whose telephone number is (571) 272-2829. The examiner can normally be reached on Monday through Friday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dillon Durnford-Geszvain

9/1/2007



LIN YE
SUPERVISORY PATENT EXAMINER